



The Process of Seeking a Judicial Bypass for Abortion May Harm Adolescents

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Seventeen-year-old Jane played soccer and dreamed of going to Texas A&M. When she saw the positive pregnancy test, she started to cry. “I want to give my kid everything, the best, better than I have. And I knew I couldn’t do that.” Jane had always been “against abortion.” But, she said, “it was my turn to make the decision and I realized that it was the best decision for me.” She also knew obtaining consent for an abortion from her parents was not a possibility. Her father had told her in the past, “I’ll disown you. You don’t exist to me if you ever [get pregnant].”

Jane lives in Texas, where adolescents under 18 years old are forced by law to obtain parental consent for abortion care. While most pregnant adolescents involve a parent in their abortion decision, some do not live with a parent or fear that disclosing the pregnancy and desire for abortion will endanger them. Some young people, like Jane, have very reasonable fears of being kicked out or emotionally or physically abused. Adolescents living in Texas who cannot, do not want to, or are afraid to involve a parent in their decision must use the courts to ask a judge for a bypass of parental consent. Little is known about adolescents’ experiences with the judicial bypass process. In order to investigate, we interviewed 20 adolescents who sought judicial bypass in Texas in 2015 or 2016. The research team included co-investigators from the Texas Policy Evaluation Project, an attorney, and a case manager at Jane’s Due Process, a non-profit organization in Texas providing legal representation for pregnant adolescents.

Burdensome, Unpredictable, and Traumatic

Our research participants described a highly burdensome, frightening, and humiliating process. Adolescents seeking bypass must go to the courthouse, interview with a court-appointed guardian-ad-litem (GAL), and stand before a randomly assigned judge to prove that they are either mature and well-informed or that parental consent is not in their best interest. Even though the legal standards that judges are required to follow are clear, the process as revealed in our interviews was largely unpredictable. Adolescents had to find transportation and take time away from home and school, risking discovery by their parents – the very reason they sought bypass in the first place. Some participants had their bypass granted just a few days after contacting Jane’s Due Process for resources; others, like Jane, experienced delays of over a month, only to be denied. They experienced “fight or flight” responses such as nausea and shaking and feared that saying the wrong thing could mean being forced to carry the pregnancy to term. Some GALs – often those affiliated with a local church – “preached at them” or told them, as Jane experienced, that “it’s never the right option to have an abortion.” Another participant was humiliated by her GAL who “laughed in the courtroom... making fun of me.” Some judges humiliated the adolescents by asking extremely private and sensitive questions about their sexual histories.

Even before our participants started the bypass process, they anticipated and experienced abortion stigma from others, including friends and teachers – a major reason many chose to keep their decision private. Although the National Academies of Sciences, Engineering, and Medicine find that abortion is safe and not associated with psychological consequences, many participants feared physical or emotional harm from the abortion, often because they felt they should be punished for doing something that they were told by others – including GALs and even judges – was morally wrong. That authority figures could convince these young women that they alone deserved punishment for making sexual health choices is ironic, given that Texas rarely provides comprehensive sex education in public schools and denies access to contraception without parental consent.

Furthermore, the humiliation and shame caused by the judicial bypass process may cause lasting trauma. Other research has shown that adverse childhood experiences, stigma, and trauma are all associated with long-term consequences, including depression, anxiety, isolation, and hesitancy to seek health care. Although proponents of the judicial bypass process claim it protects adolescents from harm, it instead appears to cause harm. Our findings lead us to ask: Are parental involvement laws protecting adolescent health and well-being, or are they a tool for adults who oppose abortion rights to restrict access to abortion care and shame adolescents, particularly young women, for their sexuality?

Putting Adolescents' Health and Well-being First

Allowing adolescents to make their own decisions about their bodies and futures and to choose who they want to involve in sexual health decisions protects their health and well-being. Our and others' research suggests that forcing young people to involve adults who may harm them, exposing them to humiliation and trauma through a judicial bypass, and potentially forcing them to carry a pregnancy to term is counterproductive and is not in the best interest of young women. Instead, we should:

- **Respect adolescent autonomy.** When adolescents express fear of emotional or physical abuse, they should be trusted and allowed to decide who to involve in their pregnancy decisions.
- **Ensure consistent application of bypass laws.** States that continue to force parental involvement must mandate that the process be free from GALs and judges' interjection of their personal opinions on abortion and provide a timely and effective remedy when they do.
- **Provide free and confidential access to the full range of contraceptive options to adolescents** so they may better control if and when they want to parent.
- **Give non-judgmental, confidential, accurate sexual health information.** Those who work with young people should follow the recommendations of organizations like the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists.

Right before Jane's judge denied her bypass, Jane declared, "You guys keep telling me I'm not mature enough to make this decision and I don't know what I'm getting myself into, yet if I'm not mature enough to make a decision like this how am I mature enough to even have a baby and to go through the emotional and physical changes of having a kid?" Jane saw the illogic of the bypass system even as court officials refused to do so. If states like Texas truly want to protect young people from physical and emotional harm, accurate and stigma-free health education and a judicial system that truly respects the autonomy of adolescents must be ensured.

Read more in Kate Coleman-Minahan, Amanda Stevenson, Emily Obront, and Susan Hays, "Young Women's Experiences Obtaining Judicial Bypass for Abortion in Texas." *Journal of Adolescent Health* (2018).